

Adopt Frl 600, previously effective 1-20-88 (Doc. #4357), and expired 1-20-94, to read as follows:

## CHAPTER Frl 600 FUNERAL DIRECTOR'S PLACE OF ESTABLISHMENT

Statutory Authority: RSA 325:16

### PART Frl 601 DEFINITIONS

Frl 601.01 Definitions. Except where the context makes another meaning manifest, the following words have the meanings indicated when used in this chapter.

(a) "Funeral establishment" means a fixed place or location owned and maintained by a person, partnership, corporation, association or other entity which has been duly registered by the board pursuant to RSA 325 and which is located, constructed, equipped and operated for the purpose of carrying out any part of the profession or business of funeral directing including but not limited to sanitary handling, preparation, embalming, arranging for the final disposition and care of dead human bodies, and is licensed and inspected by the board, but shall not include a facility as defined in Frl 801.02 (i).

### PART Frl 602 REGISTRATION

Frl 602.01 Notification of Board. A funeral director who shall change the location of their funeral establishment, or who adds a funeral establishment away from their main and/or primary funeral establishment, or purchases a funeral establishment, shall within 10 days from the close of the transaction or such relocation, notify the board to request an inspection. The notification shall contain the following:

- (a) Name and address of the funeral establishment;
- (b) The type of facility in operation (funeral home or chapel);
- (c) The telephone number; and
- (d) Name of owner(s) and name(s) of licensed New Hampshire funeral directors who are employed by the establishment(s) on a full-time basis (minimum of 40 hours per week).

Frl 602.02 Personnel.

(a) Upon employment of licensed personnel, funeral home owners/managers shall provide the board with the following information:

- (1) Name(s);
- (2) Position(s);
- (3) License certificate numbers; and
- (4) Full-time or part-time status.

(b) All certificates of licensure of a funeral director, embalmer or apprentice employed by the funeral establishment shall be displayed in a place clearly visible to the general public. In instances of multiple funeral establishments, a photocopy of the license may be displayed at each remote location, with the original displayed within the primary funeral establishment.

Frl 602.03 Operations. Operation of a funeral establishment for funeral directing and embalming includes, but shall not be limited to, the sale or provision of any of the following goods or services:

- (a) Consulting with members of the general public about, and/or making arrangements concerning the disposition of human remains, including arrangements for cremation, for compensation;
- (b) Removing a deceased human body from a place of death;
- (c) Transporting human remains;
- (d) Embalming human remains;
- (e) Performing restorative and cosmetic work on human remains, including hairdressing;
- (f) Dressing human remains;
- (g) Casketing human remains;
- (h) Sale of caskets, urns and other funeral merchandise, and/or providing of rental of caskets, to the general public;
- (i) Making burial, cemetery, cremation and/or anatomical gift arrangements at the request of the decedent or decedent's family, or any other person(s) of proper legal authority pursuant to RSA 290:16 IV;
- (j) Providing of professional vehicles in connection with a funeral service;
- (k) Arranging for religious services and clergy for funeral and/or memorial services and the final disposition of human remains;
- (l) Providing assistance during visiting hours and at the funeral service, and for other funeral service related functions and responsibilities;
- (m) Securing and processing required documents, such as death certificates, burial/transfer permits, certified copies of the death certificate, and documents for foreign shipment of human remains;
- (n) Making arrangements with medical examiners;
- (o) Preparing, negotiating or executing any pre-need funeral contract, or receiving, controlling or managing any funds tendered as payment for the funeral goods and/or services identified in such a pre-need funeral contract; and
- (p) Engaging in such other activities as are considered to be a part of the business, practice, science or profession of embalming or funeral directing as commonly practiced.

Frl 602.04 All aspects of funeral directing and embalming, arranged and conducted by a funeral establishment, shall be conducted by a licensed funeral director or licensed funeral apprentice. Unlicensed personal may assist in conducting a funeral service or visitation, but only in the presence of a licensed funeral director or licensed funeral apprentice.

Frl 602.05 Any funeral service, shipping service, direct disposition service, trade service, or any service which prepares dead human bodies for final disposition, must be registered as a funeral establishment. Nothing herein contained shall be construed or interpreted to prohibit the practice of funeral directing and embalming by more than one funeral establishment from the same physical location. Licensed funeral directors or licensed embalmers leasing space in a registered funeral establishment, but providing funeral service for themselves as a separate business, are engaged in the operation of a separate and distinct funeral establishment, and therefore are required to obtain a funeral home certificate of registration and be subject to inspection as required under Frl 603.01.

Frl 602.06 A funeral establishment shall be accessible to individuals with disabilities to the extent required by all applicable provisions of the Americans with Disabilities Act (42 U.S.C.12101 et seq., and 28 CFR Part 35), and all applicable provisions of any other federal, state or local laws and regulations.

Frl 602.07 A funeral establishment shall include a preparation room equipped as defined in Frl 700.

Frl 602.08 A funeral establishment shall include a chapel or room specifically for providing and/or conducting visitation, a funeral service, or memorial service.

Frl 602.09 A funeral establishment shall contain such toilets, lavatories and other sanitary facilities for men and women as may be required by applicable federal, state and local laws and regulations.

Frl 602.10 Funeral Establishment Maintenance.

(a) The general interior of the funeral establishment shall be continually maintained to assure that public and non-public areas are clean and safe. All flooring, walls, and ceilings shall be free of holes, peeling paint, or any other deterioration beyond reasonable wear and tear. All outside openings shall be screened, covered, or otherwise sealed to prevent the entrance of insects or rodents.

(b) The general exterior and overall grounds of the funeral establishment shall be continually maintained to assure that areas of public travel are free of debris and hazards that could cause possible injury.

Frl 602.11 Documentation.

(a) A funeral home establishment shall retain and offer for review and retention to consumers, all documentation stipulated by the Federal Trade Commission and the Funeral Rule (16 CFR 453). Said documentation shall be in compliance with the rules set forth by the Federal Trade Commission and the Funeral Rule (16 CFR 453).

(b) Any funeral home chapel or location operating as a separate facility directly associated with a funeral establishment shall offer all appropriate documentation required by the Federal Trade Commission and the Funeral Rule (16 CFR 453) and said documentation shall depict the legal name, address and phone number of all locations affiliated with the funeral establishment.

(c) All services and associated costs offered to the consumer by a funeral home chapel or location operating in direct association with a funeral establishment shall be the same as that being offered by the primary funeral establishment.

(d) All websites directly related to a funeral establishment shall be maintained with current documentation and information associated with the funeral home establishment, funeral home chapel or location, and said documentation shall be in compliance with the rules set forth by the Federal Trade Commission and the Funeral Rule (16 CFR 453).

Frl 602.12 Documentation Retention.

(a) Price Lists shall be retained for a minimum of three years following the date on which they are no longer effective.

(b) Itemized Statements of Funeral Goods and Services shall be retained for a minimum of six years from the date on which arrangements were made.

(c) All documents, preneed and atneed, shall be maintained on the premises and made available for inspection.

Frl 602.13 Every funeral establishment shall maintain a clearly legible exterior sign displaying the legal name of the funeral establishment. The sign shall be placed in a location such that it is clearly visible to the public.

## PART Frl 603 INSPECTION

### Frl 603.01 Funeral Establishment Inspections.

(a) Every funeral establishment or chapel where funeral directing is conducted or where embalming is practiced shall be inspected by the board at least once every 3 years. Inspections shall be performed by members of the board and/or the board's appointed designee, and shall be conducted in the presence of the owner(s) or a licensed New Hampshire funeral director employed by the funeral establishment.

(b) A board member or its authorized designee shall have the right to enter into and inspect any licensed funeral establishment at any time during regular business hours for the purpose of inspecting such records and conducting such investigations as may reasonably be necessary to ensure that the funeral establishment, and its owners and employees, are in compliance with all applicable requirements set forth in Frl 700 and all other applicable federal, state and local laws or regulations.

(c) The inspection report shall be completed by a board member or its authorized designee and includes the following:

- (1) Name of funeral establishment, physical address, telephone number, fax number, e-mail and web site address;
- (2) Establishment license number, date and time of inspection, type of inspection and type of ownership;
- (3) Name, position, license number and hours worked for each employee of the establishment;
- (4) Name and address of financial institution where pre-need funds are deposited including name of licensed agent;
- (5) Whether the establishment complies with displaying certificates of inspection and certificates of licensed individuals in accordance with Frl 602.02 (b) and Frl 603.02;
- (6) Whether the establishment complies with Americans with Disabilities Act;
- (7) Whether the establishment maintains compliance with Frl 602.08, Frl 602.09, Frl 602.10, (a) and (b);
- (8) Whether the establishment maintains a clearly legible exterior sign in accordance with Frl 602.13;
- (9) Whether the establishment has obtained a music license to comply with copyright laws;
- (10) Whether the establishment maintains a preparation room in compliance with Frl 701.01, (a)-(r);
- (11) Whether the establishment maintains proper sanitation and universal precautions in compliance with Frl 701.02, (c)-(f);
- (12) Whether the establishment maintains General Price List, Casket Price List, Outer Burial Container Price List and Statement of Funeral Goods and Services Selected disclosures in compliance with the Federal Trade Commission, Funeral Rule (16 CFR 453);

- (13) Whether the establishment complies with the web site requirements in Frl 602.11, (d);
  - (14) Whether the establishment complies with the preneed funeral contracts requirements in RSA 325:46-a, I;
  - (15) Obtain copies of General Price List, Casket Price List, Statement of Funeral Goods and Services Selected, Outer Burial Container Price List and Preneed Funeral Contract;
  - (16) Date of inspection and signature of inspector; and
  - (17) Date, signature and title of funeral home representative.
- (d) Funeral home inspection fees are defined in Frl 307.01, Table 307-2.

(e) A board member or its authorized designee may visit any place where the operation of embalming is being conducted or where a funeral is in process of being directed, provided however, that such visitation shall be made in a respectful manner.

(f) Interference with, or the obstruction of, a board member or an authorized designee in the performance of their respective duties by an owner, agent or employee of the funeral establishment, shall be considered sufficient cause for suspension or revocation of the funeral director's license.

Frl 603.02 Passage. Upon the board's approval/passage of such funeral establishment, the board shall issue a certificate of inspection that shall be displayed in a place viewable by the general public, within each facility registered with the board.

Frl 603.03 Failure. Upon the failure of such an inspection the board shall notify the owner and/or New Hampshire licensed funeral director of the deficiencies cited and provide a reasonable amount of time to have them corrected. Said time shall be noted to be 120 days from the receipt of a certified letter from the board, for any deficiencies cited within the preparation room, and 30 days for documentation deficiencies. A certificate of inspection shall not be issued by the board until all deficiencies are rectified. Willful non-compliance shall result in the suspension of the owner's and/or funeral director's license in accordance with RSA 325:32 and 33.

Frl 603.04 Reinspection.

(a) Reinspection of a facility that previously failed shall be performed by a board member and the initial inspector if possible. In any event, the reinspection shall be performed by at least two members of the board.

(b) As defined in Frl 307.01, Table 307-2 the reinspection fee shall be \$100.

(c) If it is determined that the public health's safety or welfare requires emergency action the board shall suspend the license of the funeral director in accordance with RSA 541-A:15, III, and the funeral establishment shall not be allowed to operate until all deficiencies noted within the inspection report are rectified and a reinspection by a board member and the initial inspector has been completed and determined that all corrective actions have been completed.

(d) At the board's discretion, photographs of the correction of the cited deficiencies may be submitted, and the board and the original inspector may in their discretion, approve the corrective actions without the requirement of a reinspection. In such case, no reinspection fee shall be required.